

**Schaben, Darlene**

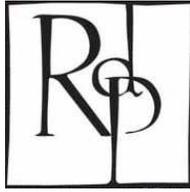
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**From:** Eric Karch <ericjkarch@gmail.com>  
**Sent:** Wednesday, September 18, 2013 7:49 AM  
**To:** Hoke, John  
**Cc:** Danelle Haake (RDPWC); Steve Nagle; Susan Mintz; Theodore Smith; Matthew Hannon  
**Subject:** Comment Letter - Proposed Rulemaking for 10 CSR 20-7.031 WQS  
**Attachments:** 130918\_RdPWC\_CommentLetter\_10CSR20\_7\_031\_WQS.pdf

Mr. Hoke,

Please accept this digital copy of our comment letter on the Proposed Rulemaking for 10 CSR 20-7.031 Water Quality Standards. I am also mailing a hard copy.

Thank you,  
River des Peres Watershed Coalition  
Eric Karch, Chair



**River des Peres Watershed Coalition**

PO Box 300458

University City, MO 63130

[www.riverdesperes.org](http://www.riverdesperes.org)

September 18, 2013

Mr. John Hoke  
Missouri Department of Natural Resources  
Water Protection Program  
P.O. Box 176  
Jefferson City, MO 65102-0176

RE: Proposed Amendment to 10 CSR 20-7.031 - Water Quality Standards

Dear Mr. Hoke:

The River des Peres Watershed Coalition (RdPWC) respectfully submits this letter to comment on the Proposed Amendments to 10 CSR 20-7.031 Water Quality Standards published in the *Missouri Register* on June 17, 2013. We were pleased to be allowed to present oral statements at the Clean Water Commission meeting of September 11, 2013, and appreciate the opportunity to follow-up in writing.

We would like to begin by encouraging the approval of the amended standards. The State of Missouri has lagged behind in the process of classifying our waters to meet fishable/swimmable standards for far too long.

As you work toward full implementation of the Clean Water Act, there are a number of important changes that we would like to see, generally falling into three categories:

1. Moving forward to classify ALL Waters of the United States in the State of Missouri to protect aquatic life and human recreation, rather than just those waters that are included in the 1:100,000 scale mapping dataset;
2. Protecting our wetland resources with numeric standards; and
3. Protecting our urban waters.

First, the use of any scale of map as a determination of whether or not a body of water can support either human recreation or aquatic life is entirely arbitrary. In the St. Louis region, there are many lakes, ponds, and impoundments on publicly accessible land that are currently used for paddling and fishing that will not be recognized in the 1:100,000 dataset. Many of these waters are not recognized in the 1:24,000 dataset, either. That does not stop the fish from living in these waters, nor does it stop the angler from catching and eating those fish.



There are also many headwater streams that provide seasonal spawning habitat for amphibians and other forms of aquatic life. The vast majority of these ephemeral waters will remain unprotected, despite their importance to the wildlife that rely on them. This is counter to the mandate in the Clean Water Act that requires protections for aquatic life.

In addition, the proposed designations as shown in the Interactive Map Viewer<sup>1</sup> provided by the Department of Natural Resources (DNR) leave many of our waters segmented. For example, unclassified portions of Deer Creek and Gravois Creeks receive water from classified portions located upstream. Scientists and policy makers are increasingly approaching the health of our aquatic ecosystems on a watershed basis and not a segmented basis as presented in the proposed rule. In fact, the rule states that use attainability "demonstrations will not cause segmentation of a water body, unless the demonstration provides sound data that the designated use is not representative of the water body as a whole." This segmented system presents conflicting goals where lesser designated use streams flow into higher designated use streams, thereby complicating the improvement potential of the stream.

We encourage you to consider expanding the use designations to all Waters of the United States within the State of Missouri, rather than simply the 1:100,000 dataset. Due to time constraints on the approval of this amended rule, we would encourage you to, at a minimum, add provisions to simplify the process and decrease the burden of proof required to add designated uses to unclassified segments of the waters of Missouri. This simplified use attainability analysis (UAA) process should allow waters like Simpson Lake in St. Louis County, which is used regularly for paddling and fishing, or Gravois Creek, which is included in the segmented waters discussed above, to be added using a few pages of easily accumulated evidence, rather than a lengthy document that requires the efforts of consultants and lawyers. Simply put, the Clean Water Act is default fishable/swimmable use, and therefore the greater burden of proof should fall on those who would downgrade a use designation.

Second, the addition of wetlands to the protected waters in the State of Missouri is an important step forward. However, the currently proposed amendment to the rule does not include standards to back up the protection of uses. Without the inclusion of standards, there are no teeth to the regulation of wetlands.

Finally, we would like to comment on the provisions in the proposed amended rules that will most directly impact urban water resources across the state. The mission of RdPWC is to improve, protect, and maintain the River des Peres, its tributaries, and its watershed as a vital natural and cultural resource in the St. Louis Metropolitan area. We have a vision for the River des Peres that includes improving both water quality and habitat associated with the River.

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1 <http://www.dnr.mo.gov/env/wpp/rules/wpp-rule-dev.htm>



We are concerned that the proposed rules make it too easy to designate the use of urban waterways as either "modified aquatic habitat," which currently has no standards associated with it, or as "man-made systems constructed solely to treat or convey stormwater," which will receive no protection. In our region, the Metropolitan St. Louis Sewer District defines any stream to which anthropogenic features have been added as an "improved channel." By their definition, improved channels include heavily impacted concrete lined channels that receive sewer overflows, as well as minimally impacted channels that have received a rock revetment to address bank erosion. We are concerned that the classification language is not well-defined and that our "improved" streams might invite the designated use of "stormwater conveyance." These waters were streams long before they were altered to drain our landscape. We request that the following language, adapted from that proposed by DNR to the Clean Water Commission in September 2009, be added to the rule:

"Man-made systems" does not include conveyance or treatment systems created in waters of the state or resulting from the impoundment of waters of the state.<sup>2</sup>

Despite assumptions to the contrary, these rivers that are being overburdened with concrete, polluted stormwater, and human waste are still supporting aquatic life. Despite what we have done to our urban waters, they still provide habitat to fish and fowl. They are home to mayflies and mink, damselflies and darters, muskrat and mallards, crayfish and caddisflies. The diverse array of wildlife in our urban waters is deserving of full protection.

In addition, once a waterbody is assigned to one of these lesser designated uses, it appears that the proposed rule does not provide for a pathway for improvement. The spirit of the Clean Water Act is to strive toward making all waters fishable and swimmable. We understand that budgetary constraints are such that the State of Missouri cannot implement improvement strategies on all creeks simultaneously, and some outliers at the bottom of the list may wait a long time to see any improvement. However, the budget is a separate issue to the goal, and we should not codify lack of attainment with a classification system that will put many of our urban waters into an untouchable class. This is counter to the Clean Water Act.

The people of Missouri have demonstrated time and again that they care about their water resources. In 2011 alone, 40,000 volunteers with the Missouri Stream Team program reported over 202,000 hours of service; this is the labor equivalent of over 100 full time employees. Of these hours, 16% were reported from St. Louis County; not only do Missourians care for their water resources, but they care for their urban water resources. This was also demonstrated quite clearly by the St. Louis community in November 2001 by the passage with a 68% vote of the Clean Water, Safe Parks, and Community Trails Initiative in St. Louis City, St. Louis County, and St. Charles County.

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2 <http://www.dnr.mo.gov/env/wpp/rules/10CSR20-7031WaterClassificationRuleRevisions-090711.pdf>



In summary, please approve this Proposed Rule which advances water quality protections in Missouri. Missouri waters deserve adequate protections to safeguard their health and our heritage.

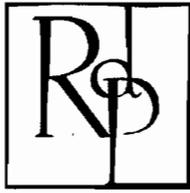
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Sincerely,

Eric Karch

Chair, River des Peres Watershed Coalition  
Stream Team Association (ST #3745)

*The River des Peres Watershed Coalition is a registered 501(c)(3) non-profit organization, federal tax identification number 90-0417789.*



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PO Box 300458  
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www.riverdesperes.org

**RECEIVED**

SEP 23 2013

September 18, 2013

**WATER PROTECTION PROGRAM**

Mr. John Hoke  
Missouri Department of Natural Resources  
Water Protection Program  
P.O. Box 176  
Jefferson City, MO 65102-0176

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